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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/623,694	10/623,694 07/21/2003		Thomas K. Allen	34169	5340	
	7590	01/27/2005		EXAMINER		
Hovey Williams LLP Suite 400			TOOMER, CEPHIA D			
2405 Grand B	lvd.		ART UNIT	PAPER NUMBER	1	
Kansas City, MI 64108				1714		_

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/623,694	ALLEN ET AL.					
Office Action Summary	Examiner	Art Unit					
	Cephia D. Toomer	1714					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence ac	idress				
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) day fill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed s will be considered time the mailing date of this o D (35 U.S.C. § 133).	ly. communication.				
Status							
1) Responsive to communication(s) filed on 14 Oc	<u>ctober 2004</u> .						
,	action is non-final.	•					
,							
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	i3 O.G. 213.					
Disposition of Claims							
4) Claim(s) 6-14 is/are pending in the application.							
4a) Of the above claim(s) is/are withdray	vn from consideration.						
5) Claim(s) is/are allowed.							
6) Claim(s) 6-14 is/are rejected.							
7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or	r election requirement						
,	, 515511511 15q211 511151111						
Application Papers							
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) acce		Evaminor					
Applicant may not request that any objection to the							
Replacement drawing sheet(s) including the correct			FR 1.121(d).				
11) The oath or declaration is objected to by the Ex	* * * * * * * * * * * * * * * * * * * *	-					
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a))-(d) or (f)					
a) ☐ All b) ☐ Some * c) ☐ None of:	priority under oo o.o.o. 3 1 10(a)	, (4) 51 (1).					
1.☐ Certified copies of the priority documents	s have been received.						
2. Certified copies of the priority documents		on No					
3. Copies of the certified copies of the prior	ity documents have been receive	ed in this National	Stage				
application from the International Bureau	ı (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list	of the certified copies not receive	ed.					
Attachment/c)							
Attachment(s) 1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da	ate	0.450)				
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	5) ☐ Notice of Informal F 6) ☐ Other:	atent Application (PT	O-152)				

DETAILED ACTION

This Office action is in response to the amendment filed October 14, 2004 in which claims 1-5 and 15-23 were canceled.

1. The indicated allowability of claims 6-14 is withdrawn in view of the newly discovered reference(s) to McLaughlin and Kessell. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 3. Claims 6-9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by McLaughlin (US 5,948,323).

McLaughlin teaches colloidal-sized particles of solid chemicals that act as smoke suppressants and flame retardants (see abstract). The chemicals are milled to reduce their size and dispersed in a fluid vehicle such as water or an organic liquid (see abstract and claims 13-14). The solid chemicals include antimony trioxide and a mixed metal oxide of zinc and magnesium (see col. 2, lines 8-29). The solid chemical and fluid are prepared as a slurry and processed in an agitated media mill (see col. 2, lines 51-55; col. 3, lines 47-58). It is also preferred that the slurry further comprise a dispersion agent (see col. 2, lines 64-65). The final slurry comprises 5-60 wt % of the comminuted

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solid chemicals, 40-95 wt % fluid vehicle and 2-15 wt % dispersion agent (see col. 5, lines 38-42).

In Example 3, McLaughlin adds additional water to the solid chemical, water and dispersion mixture. Since McLaughlin teaches the same method, the dispersion of his invention would inherently remain suspended for at least one month.

Accordingly, McLaughlin teaching all the limitations of the claims anticipates the claims.

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 4. Claims 6, 8, 10 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kessell (US 6,683,130).

Kessell teaches a dispersion comprising at least 30% by wt of a metal oxide (Ti, Zn or Fe)(see abstract; col. 2, lines 5-8), 10-60 5 by wt of an oil phase, 40-90 5 by wt. of an aqueous phase and 5-10 % by wt. of an emulsifier (see col. 5, lines 23-34). The metal oxides may be coated with saturated or unsaturated fatty acids (see col. 2, lines 61-67). These compounds are also known surfactants.

The method of preparing the dispersion of the metal oxides comprises milling the metal oxide in a siloxane fluid dispersing medium and in the presence of a dispersing agent. The process is continued until the primary particles of the metal oxides are pulverized to an average particle size less than 200 nm (see col. 4, lines 24-36).

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Accordingly, Kessell teaching all the limitations of the claims anticipates the claims.

Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kessell (US 6,683,130).

Kessell has been discussed above. Kessell fails to teach that oleic acid is the fatty acid. However, it would have been obvious to one of ordinary skill in the art to have selected oleic acid as the fatty acid because Kessell teaches using any C_{10} - C_{20} fatty acid (see col. 2, lines 61-67).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cephia D. Toomer
Primary Examiner
Art Unit 1714

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